

Proposed Interagency Guidelines re Credit Reporting

Comments

I am a banker with more than 30 years lending experience, the majority of which has been spent as the senior lender in regional and community banks. For more than 10 years I have worked as a banking consultant assisting banks with lending issues. Our firm has worked with more than 90 client banks in seven states. The following comments are offered for your consideration regarding the proposed *Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies Under Section 312 of the Fair and Accurate Credit Transactions Act*.

Under the proposed language regarding accuracy and integrity regulations, the *Guidelines Definition Approach* in the proposed revision to the FACT Act, as well as in the Interagency Guidelines revision, defines “accuracy” to mean that “any information that a furnisher provides to a CRA about an account of other relationship with the consumer reflects without error the terms of and liability for the account or other relationship and the consumer’s performance or other conduct with respect to the account or other relationship.” The term “without error” is of concern, as banks are targets for litigation. I am familiar with a bank that is accused of forcing a borrower into bankruptcy for the erroneous reporting of one loan having been one time over 30 days late and another loan erroneously reported as 60 days late. Within days of the first occurrence, the bank identified the error prior to the borrower’s knowledge, notified the credit reporting agencies to correct the error (both by facsimile and by letter), and provided written notification to the borrower. The error was promptly corrected by all credit reporting agencies and the credit reports updated to reflect accurate information. The second reporting error involved a different loan and occurred some time later. That error was not identified by the bank or reported to the bank by the borrower prior to the loan being paid off a few months later. The borrower subsequently filed for bankruptcy and has sued the bank for a substantial sum, claiming these two reporting errors forced him into bankruptcy. While the borrower generally has a clean credit history otherwise, further investigation reveals subprime mortgage lenders made loans on rental properties based upon unverified income that resulted in a Debt/Income Ratio exceeding 100%. The bank has been forced to spend a significant amount defending itself. It should be noted that at the time the errors occurred, the bank had total assets of approximately \$30 million and approximately 15 employees.

The words “without error” are of concern. The purpose of the regulation is to make every effort to eliminate errors in credit reporting. Care should be taken to ensure that the proposed language does not result in a bank being in violation of the law for an honest mistake that is promptly corrected. If community banks cease reporting in order to eliminate the risk of litigation over an honest mistake, credit information used in the credit decision process will be compromised. For these reasons, use of the version that does not contain the words “without error” is recommended.